

REMARKS

Claims 1-34 are pending in this application. By this Response, claims 1-27 and 29-34 have been cancelled, without prejudice. Attached hereto is a complete listing of all the pending claims, with their current status listed parenthetically.

As claims 1-27 and 29-34 have been cancelled, the rejections of these claims are now moot.

Applicant acknowledges with appreciation the Examiner's indication that claim 29 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

In response, Applicant has amended claim 28 (claim 29's base claim) to include the element found in claim 29.

For the purpose of establishing an non-ambiguous prosecution history, Applicant notes that no prior art has been cited against claim 29, and thus the amendment of claim 28 to include the element of claim 29 has not been made to overcome any cited prior art.

With regard to the 35 U.S.C. §102(b) anticipation rejection of claim 28, the cited reference, U.S. patent 5,973,494 ("Masreliez") does not teach or suggest all of the elements found in claim 28.

For example, the Examiner states that Masreliez teaches "a receiver comprising two receivers (figure 7, elements 178 and 179)." However, Masreliez is directed to an electronic caliper using a low power inductive position transducer (Title). The "receivers" 178 and 179 are formed from conductors 181, 182, 183 and 184 (col. 9, lines 41-44). The "receivers" 178 and 179 function "as a specialized magnetic flux sensor" (col. 11, lines 6-7).

In contrast, Applicant's claim 28 recites, in part, "two receivers structured to receive an incoming ultra-wideband pulse." Nowhere in Masreliez is there any teaching or suggestion of any type of receiver that is structured to receive an incoming ultra-wideband pulse.

In fact, Applicant respectfully reminds the Examiner that non-analogous art is not properly cited under 35 U.S.C. § 103 or 102 to reject claims defining an invention. The Court of Appeals for the Federal Circuit (CAFC) has developed a two-step test for determining whether particular references are within the appropriate scope of the inventor's art, i.e., whether the references relate to analogous art. In re Deminski, 230 USPQ 313 (Fed. Cir. 1986); In re Clay, 23 USPQ2d 1058 (Fed. Cir. 1992) see M.P.E.P. § 2141.01(a). In applying the two-step test, it must first be determined whether the prior art reference is within the field of the inventor's endeavor. Second, if the reference is not within the inventor's field of endeavor, then it must be determined whether or not the reference is reasonably pertinent to the inventor's particular solution to a problem. A reference that fails both parts of the test cannot properly be used to support an obviousness rejection under 35 U.S.C. § 103 or 102.

It is respectfully submitted that Masreliez' electronic calipers are not even close to the same field of endeavor as the present invention, nor are they reasonably pertinent to the particular problem addressed. Electronic calipers and correlating receivers are apples and oranges.

Applicant expressly reserves his right under 35 U.S.C. § 121 to file one or more divisional or continuation applications directed to the cancelled subject matter during the pendency of this application, or an application claiming the benefit of this application under 35 U.S.C. § 120.

Conclusion

Applicant believes that this Response has addressed all items in the Office Action and now places the application in condition for allowance. Accordingly, issuance of claim 29 at an early date is solicited. No fee is believed due with this response. However, the Commissioner is authorized to charge any fee required to our Deposit Account No. 50-3143, in the name of Pulse-Link, Inc. Should any issues remain unresolved, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

Date

April 5, 2005


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